

The Regular Meeting of the
Brian Head Town Council
Town Hall - 56 North Highway 143
Brian Head, UT 84719
TUESDAY, AUGUST 23, 2016 @ 1:00 PM

Roll Call.

Members Present: Mayor H.C. Deutschlander, Council Member Larry Freeberg, Council Member Clayton Calloway, Council Member Reece Wilson, Council Member David Bourne.

Staff Present: Bret Howser, Nancy Leigh, Wendy Dowland, Shane Williamson, Cecilia Johnson, Chief Dan Benson

A. CALL TO ORDER

Mayor Deutschlander called the regular meeting of the Brian Head Town Council to order at 1:00 pm for August 23, 2016.

B. PLEDGE OF ALLEGIANCE

Mayor Deutschlander led the Council and others in the Pledge of Allegiance.

C. DISCLOSURES

There were no conflicts of interest with today's agenda items. Mayor Deutschlander stated that the disclosure statements are on file at the Town Clerk's office and are available for public inspection during normal business hours.

D. PUBLIC INPUT/ REPORTS (Limited to three (3) minutes) Non-Agenda Items

Shane Williamson, Public Works Director

1. Updated the Council on the public works projects:
 - a) Vasels water/sewer line extension will begin tomorrow, August 24, 2016.
 - b) The dedicated snowmaking waterline project should be completed within the next week.
 - c) Trail crews are currently working on a walking trail between Burt's Road and Crooked River Condominiums.
 - d) crews are working on widening Pine Lane, North Trail and Deer Trail roads and should be working towards Snowshoe road in the near future. The widening of the roads will give additional space for snow storage. The crews will also be installing road millings on Spruce, Falcon and Rue Jolley Roads.

E. APPROVAL OF THE MINUTES:

August 9, 2016 Town Council Meeting

Motion: Council Member Calloway moved to approve the August 9, 2016 Town Council minutes. Council Member Bourne seconded the motion.

Action: **Motion carried 3-0-2 (summary: Yes = 3, No = 0, Abstain = 2. Vote: Yes:** Council Member Bourne, Council Member Calloway, Council Member Freeberg. **Abstain:** Council Member Wilson, Mayor Deutschlander).



F. AGENDA ITEMS:

1. BRISTLECONE POND SAFETY & USAGE DISCUSSION. A discussion on the safety and use of Bristlecone Pond.

Cecilia Johnson, Town Treasurer, explained Council inquired whether the Bristlecone Pond area should have an ordinance or policy addressing the safety and usage of the pond area. Cecilia reported she completed some research on what other cities do regarding the signage of their lakes, ponds, etc. Parowan City's attorney has advised their Council/staff not to post any type of warning signs on their pond and Cedar City has one sign posted "No lifeguard on duty, swim at own risk". Cecilia explained that Jason Watterson from the Utah Local Government Trust (ULGT) (Town's insurance company) is here to give his recommendation on Bristlecone Pond.

Jason Watterson, ULGT, gave a brief history of water rights and the municipality's immunity in which government immunity has eroded over time. Mr. Watterson explained that the more the area looks improved, the more liability the town takes on. Mr. Watterson reported he has spoken with Eric Johnson, Town Attorney, on the town's liability of the pond area and Mr. Johnson explained that the court looks at it as the more improved the pond is, the more liability the town takes on and the best way to avoid liability is to fence the pond off which would not work for the town. Mr. Watterson explained another option would be to install signage identifying "No swimming" along with the town identifying any potential hidden hazards the pond may have. If the town decides to install signage around the pond, the town is putting the public on notice but also takes on the liability. Mr. Watterson recommended that since the pond was constructed by the town for public use, the town should sign the pond area such as "No lifeguard on duty and "swim at own risk".

The Council held discussion on the following:

1. Council Member Wilson reported on two drowning's in Herriman's pond in which the pond identified signs "Swim at own risk" and "No lifeguard on duty". Council Member Wilson inquired as to the town's liability would be if the town chose to sign the pond. Mr. Watterson explained that the two drowning's in Herriman were adults that may have been intoxicated which is an easier case to defend than if a child were to drown.
2. Mr. Watterson reported he walked around Bristlecone Pond earlier today and noticed the water was extremely cold and doesn't look inviting to swim in, and there is rip-rap around the pond which is also a deterrent for swimming. If the town wants the public to swim in the pond, then the town should identify signage stating "swim at own risk" and "No lifeguard on duty".
3. Mr. Watterson suggested if the town were to install signage, it should be placed on the main access points of the pond and should be pictograms instead of words for those who don't read English.
4. Mayor Deutschlander inquired if the town should adopt an ordinance that prohibits swimming. Mr. Watterson responded the town should consult their attorney on that particular question.
5. Mr. Watterson reported that during his walk around the pond area he had a concern with the town's playground area in which the equipment is old and is actually for residential use instead of public use. Mr. Watterson recommended the town upgrade the playground equipment along with the fall material in the playground area in order to meet standards for public playgrounds.
6. Council Member Calloway explained the town annexed a large area in 2008 in which there was a makeshift water system in place for several cabins in the newly annexed area. Council Member Calloway inquired if the town has any liability for the makeshift water system. Mr. Watterson explained if the town does not have control over the water system, there shouldn't be any liability for the town.
7. Mr. Watterson recommended the town keep their property schedule updated and if the town takes on any new property, the town should notify the Trust to update their property schedule.



- 1 8. Jim Vincent, Brian Head resident, on two athletics that fell in the water when they had coats on
2 and drowned at Meadow Lakes. Mr. Vincent explained that this could also happen at Bristlecone
3 Pond when people are fishing in the pond.
4

5 **Consensus of the Council:** Directed staff to install signage at the pond "No lifeguard on duty and swim
6 at own risk" Staff will bring back final draft for Council's approval.
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9 **2. PUBLIC HEARING – FISCAL YEAR 2017 BUDGET AMENDMENT**

10 **Motion:** Council Member Bourne moved to recess the regular meeting of the Brian Head Town
11 Council and open a public hearing to receive public comment on a proposed fiscal year
12 2017 budget amendment. Council Member Calloway seconded the motion.
13

14 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Bourne, Council
15 Member Calloway, Council Member Freeberg, Council Member Wilson, Mayor
16 Deutschlander).
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18 The public hearing was opened at 1:40 pm. No public comments were received.
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20 **Motion:** Council Member Calloway moved to close the public hearing and reconvene the regular
21 meeting of the Brian Head Town Council. Council Member Bourne seconded the motion.
22

23 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Bourne, Council
24 Member Calloway, Council Member Freeberg, Council Member Wilson, Mayor
25 Deutschlander).
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27 The regular meeting of the Brian Head Town Council was reconvened at 1:41 pm.
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29 **3. FISCAL YEAR 2017 BUDGET AMENDMENT ORDINANCE.** An ordinance amending the 30 fiscal year 2017 budget. 31

32 Cecilia Johnson, Town Treasurer, presented a draft ordinance amending the fiscal year 2017 budget (see
33 attached). Cecilia explained the Vasels water/sewer line extension project came in higher than what was
34 budgeted for. The budget identified \$78,000 for the project and the project came in at \$86,000 for the
35 construction along with \$10,000 for engineering for a total of \$96,000. Cecilia explained \$42,000 will be
36 identified in the water capital project fund and \$54,000 in the sewer capital project fund. Cecilia reported
37 the project is scheduled to begin tomorrow, August 24, 2016.
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39 **Motion:** Council Member Calloway moved to adopt Ordinance No. 16-007, an ordinance
40 amending the fiscal year 2017 budget for \$42,000 in the water capital project fund and
41 \$54,000 in the sewer capital project fund
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43 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Bourne, Council
44 Member Calloway, Council Member Freeberg, Council Member Wilson, Mayor
45 Deutschlander).
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47 **4. CONSOLIDATED FEE RESOLUTION ADOPTION.** A resolution amending the Consolidated 48 Fee Schedule. 49

50 Wendy Dowland, Public Works Assistant, presented a draft resolution amending the Consolidated Fee
51 Schedule (see attached). Wendy explained the Council previously changed the sewer rate and directed
52 staff to come back with additional fee changes to the fee schedule which are identified in red font.
53

54 The Council then held discussion on the following:



1. Wendy explained staff reviewed the land use fees and explained the intent of the fee is to cover the town's costs. The subdivision plat amendment fee identifies the cost of the town attorney, town engineer and the majority of the fee is for a review process and public hearings, etc. The current fee is \$250 per/unit along with an application fee and the proposed fee change is \$1,250 instead of identifying individual units fees.
2. Annexation petition fee is proposed to go from \$750 to \$500.
3. Tree removal permits: Wendy explained the town has seen an influx of tree removal and in an effort to ensure that not too many trees are being taken down, the standards are now stricter in which the applicant is required to have a site plan submitted with their application. The fee is proposed to go from no fee for residential and \$25 for construction to \$25 for residential and \$250 for construction.
4. The Council had concerns the fee for commercial was too high and suggested a fee of \$100 for construction. **Consensus:** Change the fee to \$100 for construction and \$25 for residential.
5. All other proposed changes will be identified in the Consolidated Fee Schedule and staff will change the fee for tree removal permit for construction to \$100.

Motion: Council Member Calloway moved to adopt Resolution No. 457, a resolution adopting the Consolidated Fee Schedule as proposed with the exception of tree removal for construction to be identified at \$100 per application. Council Member Bourne seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Bourne, Council Member Calloway, Council Member Freeberg, Council Member Wilson, Mayor Deutschlander).

5. **IMPACT FEE DISCUSSION.** A discussion on the town's impact fees for water, sewer and public safety.

Bret Howser, Town Manager, explained he has studied the current state of the town's impact fees for water and sewer and is proposing Council consider reducing or eliminating some of the town's impact fees. Bret gave a brief history of the town's impact fees in which the impact fees serve a purpose for those who are putting pressure on the town's water/sewer systems. There is also a state requirement that impact fees are to be spent within six years of receiving the fee which makes it difficult for a town with erratic building patterns.

Bret explained the town made a decision in 2009 to use the impact fees to retire the 2009 USDA water bonds debt which come to a total of more than twenty million dollars in principal and interest, and the impact fees were supposed to be able to pay 87% of the bond debt. Currently the impact fees have paid less than 9% of the bonds and staff believes this is an ineffective revenue source. Bret explained the town currently pays the bond debt with the monthly water user fees. Bret explained he would like the Council to hold discussion on whether the town should consider reducing or eliminating the water and sewer impact fees. Bret reported he has not yet spoken with the town attorney on this issue or how it would affect the town's bond obligations and it would need to be researched before a decision is made.

The Council held discussion on the following:

1. Council Member Freeberg commented he believes the Council will receive complaints on both sides of the argument in which he can see both sides. Council Member Freeberg commented he believes the current water impact fee is too high and could be reduced in half.
2. Council Member Calloway commented that he believes Brian Head will continue to struggle until it has a base population and that as a long term goal, the town should try to increase the base population which would help the businesses and the local economy. Council Member Calloway recommended the Council consider suspending the impact fees for a period of time and if the Council decides to continue to assess the impact fees, then the town should update the impact fee study. Bret explained the town would also have to update the capital facilities plan for both water and sewer.



3. Bret explained an impact fee study would cost approximately \$30,000 to \$40,000 to complete, but staff would look for grant funding for the impact fee analysis.
4. Discussion on the potential of having a low-moderate income housing base in Brian Head and it's benefits to the local economy and base population.
5. Wendy Dowland, Public Works, reported she has seen a trend towards tiny homes and the current Land Management Code does not prohibit smaller homes. Wendy commented she believes the impact fees are hindering residential building in Brian Head.
6. Jim Vincent, resident, commented he has built four to five homes in Brian Head along with other communities and reported the impact and connection fees are higher in Brian Head than any other community he has built in and believes it has hindered development. Mr. Vincent encouraged the Council to consider reducing or eliminating the impact fees.
7. Mayor Deutschlander expressed his concerns regarding the town's bond obligation with USDA and believes the town should remain with impact fees as they were intended to go towards the debt the town has.
8. Council Member Wilson suggested the Council consider suspending the impact fees for two years to determine if development improves and notify the public that the fees are waived for a period of time.
9. Council Member Freeberg commented that he does not agree with eliminating the impact fees and it would not be fair to those who have paid the impact fees. Bret responded the people who build will pay towards the debt in their user fees.

Consensus of the Council: Staff will present options for suspending and reducing the impact fees at the next Council meeting for Council's consideration.

G. ADJOURNMENT

Motion: Council Member Calloway moved to adjourn the regular meeting of the Brian Head Town Council for August 23, 2016. Council Member Freeberg seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Bourne, Council Member Calloway, Council Member Freeberg, Council Member Wilson, Mayor Deutschlander).

The regular meeting of the Brian Head Town Council was adjourned at 2:40 pm for August 23, 2016.

September 13, 2016

Date Approved

Nancy Leigh, Town Clerk

